

ORDINANCE

116005

AN ORDINANCE establishing a Seattle Ethics and Elections Commission to replace the Fair Campaign Practices Commission and the Board of Ethics; replacing the Elections Administrator with an Executive Director; prescribing duties; exempting certain positions from the Civil Service; transferring functions; delegation of fact finding to the hearing examiner; adding a new Chapter 3.70 to the Seattle Municipal Code, amending Sections 2.04.010, -.620 2.14.010, 2.24.030, 2.24.040, 4.13.010, 4.16.030, 4.20.800, -.810, -.830 and -.850, and repealing Sections 2.04.050, 2.04.080, 4.16.040, -.050, -.060 and subsections 2.04.060 A and 2.04.060 B1 in connection therewith, all by two-thirds vote of the City Council.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is added to the Seattle Municipal Code a new Chapter 3.70, entitled "Seattle Ethics and Elections Commission," as follows:

Subchapter I Commission

3.70.010 Commission established -- Purpose

There is hereby established a Seattle Ethics and Elections Commission to administer the City's Code of Ethics (Code Chapter 4.16); to administer the Election Campaign Code and its campaign matching fund program (Code Chapter 2.04); to publish the City's election pamphlets (Code Chapter 2.14); to administer the political sign ordinance (Code Chapter 2.24) and to investigate certain complaints of "improper governmental action" under the "whistleblower protection" ordinance (Code Chapter Sections 4.20.800-.850).

3.70.020 Commission membership.

The Seattle Ethics and Elections Commission shall be composed of seven (7) members selected as follows:

(a) Three (3) members shall be appointed by the Mayor subject to confirmation by the City Council;

(b) Three (3) members shall be appointed by a two-thirds (2/3) vote of the members of the City Council; and

(c) The seventh member shall be appointed by the other six members, subject to confirmation by the City Council.

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1 The Commission shall select its chair from among its
2 members.

3 **3.70.030 Terms; Reappointment.**

4 Members of the Commission shall serve for a term of three
5 (3) years ending on December 31st of the third year of such
6 term and until their successors are appointed and qualify.
7 Members are eligible for reappointment.

8 Terms shall be staggered so that the terms of one member
9 selected by the Mayor and one member selected by the City
10 Council expire each year. The term of the seventh member
11 shall commence on January 1, 1992.

12 Incumbent members of the Fair Campaign Practices
13 Commission/Board of Ethics shall complete their current terms
14 as members of the Ethics and Elections Commission.

15 **3.70.040 Vacancy; Removal; Relinquishment**

16 An appointing authority may fill a vacancy in the same
17 manner as used in making an original appointment. A person
18 appointed to fill a vacancy serves for the remainder of the
19 term.

20 An appointing authority may remove a member for cause
21 subject to confirmation by a majority of the membership of the
22 City Council. Five of the seven members of the Commission
23 must vote in favor of a removal of the seventh member.

24 Absence without excuse from three successive meetings
25 shall constitute a voluntary relinquishment of office and
26 create a vacancy if the separation between the first meeting
27 and the third successive meeting is at least forty (40)
28 calendar days.

3.70.050 Compensation; Reimbursement of Expenses

 Members of the Commission shall serve without compen-
sation. Members may be reimbursed their expenses incurred in
the performance of the duties of office.

1 **3.70.060 Neutrality in political campaigns**

2 No member of the Commission shall during his or her term
3 of office:

- 4 1) hold or campaign for elective office;
5 2) be an officer of any political party or any
6 political committee;
7 3) permit his or her name to be used or make
8 contributions, in support of or in opposition, to
9 any candidate for City office or proposition in a
10 City election;
11 4) participate in any City election campaign; or
12 5) participate in any committee that provides ratings
 of candidates for City office.

13 Subchapter II Commission Powers and Duties

14 **3.70.100 Powers and Duties**

15 The Commission shall have the following powers:

- 16 A. To administer the City's Code of Ethics (Code
17 Chapter 4.16); the Election Campaign Code and its
18 campaign matching fund program (Code Chapter 2.04);
19 the City's election pamphlet ordinance (Code Chapter
20 2.14); the political sign code (Code Chapter 2.24);
21 and the whistleblower protection ordinance (Code
22 Chapter 4.20.800 through 42.20.850 inclusive)
23 insofar as violations of the Code of Ethics or
24 elections ordinance may be involved (called
25 collectively "Commission-administered ordinances");
26 B. To publish the election pamphlet (Code Chapter
27 2.14); to maintain as a public record reports
28 required by the City's election campaign code (SMC
 Sections 2.04.150 -.290) and publish data; to
 enforce limitations on campaign contributions (SMC
 Sections 2.04.350 -.370); to execute campaign

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1 contracts, disburse campaign matching funds (SMC
2 Sections 2.04.400 -.470), and seek recovery thereof
3 if funds are due the City (SMC Section 2.04.450 -
4 .510); to solicit and accept donations for the
5 campaign matching fund account and oversee
6 administration of matching fund designation system
7 (SMC Section 2.04.600 -.630); and to promulgate
8 forms for employee statements of economic interest
9 and maintains files for their public inspection (SMC
10 Section 4.16.080);

11 C. To promulgate, amend and rescind rules and regula-
12 tions in accordance with the City's Administrative
13 Code (Code Chapter 3.02) in order to carry out the
14 Commission-administered ordinances, and to establish
15 its own procedures;

16 D. To authorize investigations, hold hearings, and make
17 findings on violations or alleged violations of any
18 Commission-administered ordinances; to consider
19 complaints, inquiries, and to initiate its own
20 proceedings; to render advisory opinions; to publish
21 informative publications and conduct educational
22 programs as to Commission-administered ordinances;

23 E. In its discretion, to delegate to the Office of the
24 Hearing Examiner the fact-finding in a case and to
25 review and revise the recommended decision of the
26 Hearing Examiner as to the interpretation and
27 application of Commission-administered ordinances,
28 and, in the event the Commission is unable to hear a
matter, to refer the hearing and decision of a
contested case to the Hearing Examiner.

F. To administer oaths and affirmations, examine
witnesses, and compel attendance of persons, and

1 production of documents, papers, books, accounts,
2 letters, and records by subpoena;

3 G. To appoint an Executive Director (SMC § 3.70.150),
4 subject to confirmation by the City Council, and to
5 confirm staff appointed by the Executive Director;

6 H. To make expenditures authorized in its annual
7 budget; to retain expert and consultant services; to
8 use the services of the City Attorney as deemed
9 appropriate to carry out its functions; and to call
10 upon the City Comptroller (Director of Finance/
11 Auditor) to assist in auditing compliance with
12 campaign contribution limits and eligibility for
13 campaign matching funds; and

14 I. To make recommendations to the City Council for
15 amendments to Commission-administered ordinances or
16 for new legislation and to comment on the effect of
17 other legislation upon its functions or Commission-
18 administered ordinances.

19 **3.70.110 Quorum**

20 Four members of the Commission shall constitute a quorum
21 for the conduct of all business and proceedings except that
22 for the conduct of hearings as to alleged violations and
23 promulgation of rules, five members shall constitute a quorum.

24 **3.70.120 Meetings**

25 The chairperson or any four members of the
26 Commission may call a special meeting of the Commission.

27 **Subchapter III -- Executive Director**

28 **3.70.150 Executive Director**

There shall be an Executive Director, appointed by the
Commission, subject to confirmation by the City Council. The
position of Executive Director shall be exempt from the
classified civil service.

1 The Commission may remove its Executive Director for
2 cause upon a majority vote of its membership.

3 **3.70.160 Powers and functions of Executive Director**

4 Under the supervision of the Commission, the functions of
5 the Executive Director include:

- 6 A. Enforcing and implementing Commission-administered
7 ordinances;
- 8 B. Subject to confirmation of the Commission, appoint-
9 ing and removing staff; supervising their work;
10 making and enforcing contracts; proposing to the
11 Commission a recommended budget; coordinating with
12 other City agencies; conducting education,
13 assistance and information programs about
14 Commission-administered ordinances;
- 15 C. Making investigations, filing charges, presenting
16 evidence at hearings, recommending settlements,
17 drafting advisory opinions for Commission approval,
18 and carrying out decisions; and, in event of a
19 delegation or referral of a case from the Commission
20 to the hearing examiner, preparing the record of
21 proceedings for the Commission.
- 22 D. Disbursing Commission funds as authorized by its
23 budget and by law; accepting funds due to the City
24 on account of Commission-administered ordinances;
25 and depositing funds received into the City
26 Treasury; and
- 27 E. Performing other functions assigned by ordinance or
28 by the Commission.

3.70.170 **Neutrality in political campaigns**

The Executive Director shall not during his or her term
of office, and no member of the staff of the Commission shall:

- A) hold or campaign for elective office;

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- B) be an officer of any political party or any political committee;
- C) permit his or her name to be used or make contributions, in support of or in opposition, to any candidate or proposition;
- D) participate in any election campaign;
- E) participate in any committee that provides ratings of candidates for office; or
- F) lobby or assist a lobbyist.

Subchapter IV -- Appeals

3.70.200 Appeal of decision of Executive Director

Any person, aggrieved by a decision of the Executive Director, may appeal the same to the Commission under such rules as the Commission may promulgate.

Section 2. Seattle Municipal Code Section 2.04.620 (Ordinance 112008, Section 1) is further amended as follows:

2.04.620 Administration.

The Executive Director (~~(Administrator)~~) shall administer the designation program, prepare explanatory material about the program, arrange for inclusion of information about the system and program in the appropriate City Light Department billing(s), provide for tabulating the results, and report to the Mayor and the City Council upon the number of designations.

B. In consultation with the Superintendent of the City Light Department and the City Treasurer, the Commission (~~(Administrator)~~) shall, after a public hearing, determine the following by rule promulgated in accord with the Administrative Code:

1. The frequency of designating: whether the opportunity to designate shall be offered on one (1) billing for the annualized amount; on two (2) separate billings, each

1 for one-half ($\frac{1}{2}$) the annualized amount; or on each bimonthly
2 billing with the designation tabulated for one-sixth ($\frac{1}{6}$) the
3 annualized amount;

4 2. The timing of the designation: if the oppor-
5 tunity does not appear with each bimonthly billing, which
6 utility billing(s) during the year shall provide the
7 opportunity to designate:

8 3. The manner of designating: the type of form
9 and method of making a designation;

10 4. Adjustments for duplicate billings, mutilated
11 remittances, and changes in accounts, such as establishment of
12 new accounts or transfers of occupancy; and

13 5. Ancillary matters as may arise from time to
14 time.

15 Section 3. Subsections 2 and 18 of Seattle Municipal
16 Code Section 2.04.010 (Ordinance 106653, Section 2) are
17 amended as follows:

18 2. "Administrator" means the (~~Administrator of the~~
19 ~~Office of Election Administration~~) Executive Director of the
20 Seattle Ethics and Elections Commission of the City.

21 18. "Fair Campaign Practices Commission (FCPC)" means
22 the (~~Fair Campaign Practices~~) Seattle Ethics and Elections
23 Commission established by Section (~~2.04.080~~) 3.70.010.

24 Section 4. Subsection A of Seattle Municipal Code
25 Section 2.14.010 (Ordinance 112213, Section 1 (part) as last
26 amended by Ordinance 112962, Section 1) is further amended as
27 follows:

28 A. The (~~Administrator of the Office of Election~~
~~Administration~~) Executive Director of the Seattle Ethics and
Elections Commission ("Administrator") shall prepare and
publish and the City Comptroller ("Clerk") shall mail to each
residence or registered voter within the City an election

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1 pamphlet as soon as practical prior to each primary, special
2 or general election. The pamphlet shall contain:

3 1. For each measure, the identification by serial
4 number, the ballot title, the text, an explanatory statement,
5 and arguments for and against the passage of the measure;

6 2. The photographs and campaign statements of the
7 candidates for the offices of Municipal Court Judge, City
8 Councilmember, City Comptroller, City Treasurer, City
9 Attorney, and the Mayor, whose names are listed on the ballot;

10 3. Information from other jurisdictions, which
11 participate in the pamphlet;

12 4. A sample ballot;

13 5. Information about election laws of partici-
14 pating jurisdictions, qualifications for voting, voter
15 registration, obtaining and using an absentee ballot or an
16 application for an absentee ballot; and

17 6. When candidates are included, a brief
18 explanation of how voters may participate in the election
19 campaign process, of disclosure requirements that apply to
20 campaign contributions, and of federal income tax credits and
21 deductions that are available to persons who make campaign
22 contributions.

23 Section 5. Subsection A of Seattle Municipal Code
24 Section 2.24.030 (Ordinance 108400), Section 3) is amended as
25 follows:

26 A. "Administrator" means the ((~~Elections Administrator~~
27 ~~for the City (Ordinance 106653))~~) Executive Director of the
28 Seattle Ethics and Elections Commission.

Section 6. Seattle Municipal code Section 2.24.040
(Ordinance 108400) is amended as follows:

The ((~~Administrator~~)) Seattle Ethics and Elections
Commission may promulgate rules pursuant to the Administrative

Code (Ordinance 102228; Code Chapter 3.02) to implement this chapter.

Section 7. Subsections C and G of Seattle Municipal Code 4.13.010 (Ordinance 113579, §1, as last amended by Ordinance 115545, §3) is further amended as follows:

C. Employing Unit	Titles of Exempt Positions
Civil Service Commission	Staff Assistant to the Civil Service Commission
Comptroller	City Clerk, Assistant
	Special Assistant -- Comptroller
	Finance and Support Services Director -- Comptroller
	Accounting Services Director
	SFMS Project Director
Construction and Land Use	Administrative and Technical Support Services Director - DCLU
	Construction Inspection Director
	Land Use Director
	Permits and Plans Examination Director
	Housing and Zoning Enforcement Director
	Construction and Land Use Director, Deputy
	Principal Engineer - DCLU
Community Development	DCD Administrative Services Division Director
	Community Development Director, Deputy
	Housing Division Director
	Finance and Economic Development Director - DCD
((Election Administration Office of))	Elections Administrator))
G. Police	Police Department Clinical Psychologist
	Administrative Assistant to Chief of Police

Fiscal and Property Management
Director - Police

Police Personnel Director

All positions included in the
Public Safety Civil Service

Public Health

All physicians, surgeons,
dentists, and interns

Chief Administrative Officer

County Division Director -
Public Health

Dental Services Chief

Environmental Health Services
Chief

Nursing Services Chief

Chief of Physician Services

Communicable Disease Control
Officer

Physician - National Health

Public Health Veterinarian

Regional Division Director -
Public Health

Seattle Division Director -
Public Health

Tuberculosis Control Officer

Venereal Disease Control Officer

Public Safety Civil
Service Commission

Secretary and Chief Examiner

Retirement

Executive Director - Retirement
System

Seattle Center

Seattle Center Director, Deputy

Finance and Administration
Director - Seattle Center

Marketing and Event Servicing
Director

Operations Director - Seattle
Center

Seattle Ethics and
Elections Commission

Executive Director - Ethics and
Elections Commission

Administrative Assistant -
Ethics and Elections Commission

Treasurer	City Treasurer, Assistant
	Special Assistant - Treasurer
Water	Water Operations Director
	Superintendent of Management and Planning, Assistant
	Customer Service Director - Water
	Water Quality Director

Section 8. Seattle Municipal Code Section 4.16.030 (Ordinance 108882 Section 4.16.030 as last amended by Ordinance 115552, Section 1) is further amended as follows:

4.16.030 Definitions.

As used in this chapter, the following terms shall have the meanings indicated.

A. "Administrator" means the Executive Director of the Seattle Ethics and Elections Commission.

B. ((A-)) "Assist" shall have the meaning set forth at RCW 42.18.050.

C. "Board of Ethics" or "Board" means the Seattle Ethics and Elections Commission established by Code Section 3.70.010.

D. ((B-)) "City agency" means every department, office, board, commission, or committee of the City, or any subdivision thereof, but excludes public corporations and ad hoc advisory committees.

E. ((C-)) "City officer or employee" means every individual elected or appointed to an office or position of employment in any City agency or Board or Commission member, whether such individual is paid or unpaid.

F. ((D-)) "Immediate family" means:

1. A spouse or domestic partner as contemplated by Sections 4.30.010-.020;

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1 2. Any dependent parent, parent-in-law, child or
2 son-in-law or daughter-in-law; or

3 3. Any parent, parent-in-law, child, son-in-law,
4 daughter-in-law, sibling, uncle, aunt, cousin, niece or nephew
5 residing in the household of the City officer or employee.

6 G. ((E-)) "Person" means individual, association,
7 corporation, or other legal entity.

8 Section 9. Seattle Municipal Code Section 4.20.800
9 (Ordinance 115464, Section 1) is amended as follows:

10 **4.20.800 Policy -- Purpose.**

11 Unless prohibited by State law, City employees are
12 encouraged to report on improper governmental action to the
13 City Comptroller, the City Council and/or State Auditor,
14 police misconduct to the Police Department's Internal
15 Investigation Section, violations of the Code of Ethics and/or
16 the Fair Campaign Practices Code to the ((~~Election Administra-~~
17 ~~ter~~)) Executive Director of the Seattle Ethics and Elections
18 Commission and violations of the Code of Judicial Conduct by
19 Municipal Court judges to the Washington State Judicial
20 Conduct Commission. To assist such reporting, Sections
21 4.20.800 through 4.20.830 provide City employees protection
22 from interference and retaliatory action for reporting and
23 cooperating in the investigation and/or prosecution of
24 improper governmental action and/or disclosing such action to
25 news media.

26 Section 10. Subsection C 1 a of Seattle Municipal Code
27 Section 4.20.810 (Ordinance 115464, Section 1 is amended as
28 follows:

a. Reports to the City Comptroller, the State
Auditor, and/or, as to judicial conduct, the Washington State
Judicial Conduct Commission, or as to police misconduct, the
Police Department's Internal Investigations Section, or, as to

1 violations of the Code of Ethics or Fair Campaign Practices
2 Code, the ((~~Election Administrator~~)) Executive Director of the
3 Seattle Ethics and Elections Commission as the case may be
4 (called the "auditing official"), another government official
5 or a member of the public, any "improper governmental action"

6 Section 11. Subsection E of Seattle Municipal Code
7 Section 4.20.830 (Ordinance 115464, Section 1) is amended as
8 follows:

9 E. Rules and Procedures. The City Comptroller shall
10 promulgate rules and procedures for implementing this chapter.
11 The Seattle Ethics and Elections Commission may promulgate
12 supplemental rules for implementing this chapter as to the
13 Code of Ethics and/or the Fair Campaign Practices Code. The
14 rules shall be promulgated in accordance with the Administra-
15 tive Code, Seattle Municipal Code Chapter 3.02, and in
16 consultation with the City Council Finance Committee.

17 Section 12. Subsection A of Seattle Municipal Code
18 Section 4.20.850 (Ordinance 115464, Section 1) is amended as
19 follows:

20 A. "Auditing official" means the City Comptroller, the
21 Washington State Auditor, or the Washington State Judicial
22 Conduct Commission; as to police misconduct, the Police
23 Department's Internal Investigations Section, and as to a
24 violation of the Code of Ethics, and/or the Fair Campaign
25 Practices Ordinance, the ((~~Election Administrator~~)) Executive
26 Director of the Seattle Ethics and Elections Commission; and
27 any authorized assistant or representative of any of them.

28 Section 13. The Commission shall assume care, custody
and control of all of the property, records, books, papers,
equipment, offices, rights and responsibilities of the Fair
Campaign Practices Commission, the Office of Election
Administration, and the Board of Ethics in existence imme-

1 diately prior to the effective date of this ordinance. The
2 initial staff of the Commission shall be provided in the 1992
3 City Budget. The incumbent Staff Assistant of the Board of
4 Ethics may be continued as interim Administrative Assistant -
5 Ethics and Elections Commission, in an exempt status, without
6 interruption of service or loss of pay, pending appointment of
7 the Executive Director and the appointment and confirmation of
8 a successor Administrative Assistant.

9 Section 14. The following Seattle Municipal Code
10 sections and subsections are each hereby repealed:

11 Code Section 2.04.050 (Ordinance 106653, Section 15)

12 Subsection A of Code Section 2.04.060 A (Subsection A of
13 Ordinance 106653, Section 16, as amended)

14 Subsection B 1 of Code Section 2.04.060 (Subsection B 1
15 of Ordinance 106653, Section 16, part B 1)

16 Code Section 2.04.080 (Ordinance 106653, Section 18)

17 Subsection C of Code Section 2.04.150 (Subsection C of
18 Ordinance 106653, Section 1)

19 Code Section 4.16.040 (Ordinance 108882 Section 4.16.040)

20 Code Section 4.16.050 (Ordinance 108882, Section
21 4.16.050, as last amended by Ordinance 109950, Section 1
22 (part)); and

23 Code Section 4.16.060 (Ordinance 108882, Section
24 4.16.060, as last amended by Ordinance 109950, Section 1
25 (part)).

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Section 15... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 9th day of December, 1991,
and signed by me in open session in authentication of its passage this 9th day of
December, 1991.

President.....of the City Council.

Approved by me this 17th day of December, 1991.
Norman B. Rice Mayor.

Filed by me this 18th day of December, 1991.

Attest: Norman J. Brooks
City Comptroller and City Clerk.

(SEAL)

Published.....

By Margaret Carter
Deputy Clerk.

12271
City of Seattle

STATE OF WASHINGTON - KING COUNTY

—ss.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a
ORD# 116005

was published on
12/30/91

The amount of the fee charged for the foregoing publication is the sum of \$, which amount has been paid in full.

K. Kelly
12/30/91 Subscribed and sworn to before me on

Jennifer A. Nicholson
Notary Public for the State of Washington,
residing in Seattle

Affidavit of Publication

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TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY
THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Salvador Sibong

_____	_____
_____	_____
_____	_____
_____	_____

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO:

PRESIDENT'S SIGNATURE

C S 20 28

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35 MM